

Introduced by Senator Cedillo

February 9, 2006

An act to amend Section 13300 of the Penal Code, relating to criminal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 1268, as introduced, Cedillo. Criminal history information.

Existing law requires local criminal justice agencies to furnish certain summary criminal history information to various law enforcement and local government persons, as specified.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 13300 of the Penal Code is amended to
2 read:
3 13300. (a) As used in this section:
4 (1) "Local summary criminal history information" means the
5 master record of information compiled by any local criminal
6 justice agency pursuant to Chapter 2 (commencing with Section
7 13100) of Title 3 of Part 4 pertaining to the identification and
8 criminal history of any person, such as name, date of birth,
9 physical description, dates of arrests, arresting agencies and
10 booking numbers, charges, dispositions, and similar data about
11 the person.
12 (2) "Local summary criminal history information" does not
13 refer to records and data compiled by criminal justice agencies

1 other than that local agency, nor does it refer to records of
2 complaints to or investigations conducted by, or records of
3 intelligence information or security procedures of, the local
4 agency.

5 (3) “Local agency” means a local criminal justice agency.

6 (b) A local agency shall furnish local summary criminal
7 history information to any of the following, when needed in the
8 course of their duties, provided that when information is
9 furnished to assist an agency, officer, or official of state or local
10 government, a public utility, or any entity, in fulfilling
11 employment, certification, or licensing duties, Chapter 1321 of
12 the Statutes of 1974 and Section 432.7 of the Labor Code shall
13 apply:

14 (1) The courts of the state.

15 (2) Peace officers of the state, as defined in Section 830.1,
16 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
17 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
18 Section 830.5.

19 (3) District attorneys of the state.

20 (4) Prosecuting city attorneys of any city within the state.

21 (5) Probation officers of the state.

22 (6) Parole officers of the state.

23 (7) A public defender or attorney of record when representing
24 a person in proceedings upon a petition for a certificate of
25 rehabilitation and pardon pursuant to Section 4852.08.

26 (8) A public defender or attorney of record when representing
27 a person in a criminal case and when authorized access by
28 statutory or decisional law.

29 (9) Any agency, officer, or official of the state when the local
30 summary criminal history information is required to implement a
31 statute, regulation, or ordinance that expressly refers to specific
32 criminal conduct applicable to the subject person of the local
33 summary criminal history information, and contains requirements
34 or exclusions, or both, expressly based upon the specified
35 criminal conduct.

36 (10) Any city, county, city and county, or district, or any
37 officer or official thereof, when access is needed in order to assist
38 the agency, officer, or official in fulfilling employment,
39 certification, or licensing duties, and when the access is
40 specifically authorized by the city council, board of supervisors,

1 or governing board of the city, county, or district when the local
2 summary criminal history information is required to implement a
3 statute, regulation, or ordinance that expressly refers to specific
4 criminal conduct applicable to the subject person of the local
5 summary criminal history information, and contains requirements
6 or exclusions, or both, expressly based upon the specified
7 criminal conduct.

8 (11) The subject of the local summary criminal history
9 information.

10 (12) Any person or entity when access is expressly authorized
11 by statute when the local summary criminal history information
12 is required to implement a statute, regulation, or ordinance that
13 expressly refers to specific criminal conduct applicable to the
14 subject person of the local summary criminal history information,
15 and contains requirements or exclusions, or both, expressly based
16 upon the specified criminal conduct.

17 (13) Any managing or supervising correctional officer of a
18 county jail or other county correctional facility.

19 (14) Local child support agencies established by Section
20 17304 of the Family Code. When a local child support agency
21 closes a support enforcement case containing summary criminal
22 history information, the agency shall delete or purge from the file
23 and destroy any documents or information concerning or arising
24 from offenses for or of which the parent has been arrested,
25 charged, or convicted, other than for offenses related to the
26 parents having failed to provide support for the minor children,
27 consistent with Section 17531 of the Family Code.

28 (15) County child welfare agency personnel who have been
29 delegated the authority of county probation officers to access
30 state summary criminal information pursuant to Section 272 of
31 the Welfare and Institutions Code for the purposes specified in
32 Section 16504.5 of the Welfare and Institutions Code.

33 (c) The local agency may furnish local summary criminal
34 history information, upon a showing of a compelling need, to any
35 of the following, provided that when information is furnished to
36 assist an agency, officer, or official of state or local government,
37 a public utility, or any entity, in fulfilling employment,
38 certification, or licensing duties, Chapter 1321 of the Statutes of
39 1974 and Section 432.7 of the Labor Code shall apply:

1 (1) Any public utility, as defined in Section 216 of the Public
2 Utilities Code, which operates a nuclear energy facility when
3 access is needed to assist in employing persons to work at the
4 facility, provided that, if the local agency supplies the
5 information, it shall furnish a copy of this information to the
6 person to whom the information relates.

7 (2) To a peace officer of the state other than those included in
8 subdivision (b).

9 (3) To a peace officer of another country.

10 (4) To public officers, other than peace officers, of the United
11 States, other states, or possessions or territories of the United
12 States, provided that access to records similar to local summary
13 criminal history information is expressly authorized by a statute
14 of the United States, other states, or possessions or territories of
15 the United States when this information is needed for the
16 performance of their official duties.

17 (5) To any person when disclosure is requested by a probation,
18 parole, or peace officer with the consent of the subject of the
19 local summary criminal history information and for purposes of
20 furthering the rehabilitation of the subject.

21 (6) The courts of the United States, other states, or territories
22 or possessions of the United States.

23 (7) Peace officers of the United States, other states, or
24 territories or possessions of the United States.

25 (8) To any individual who is the subject of the record
26 requested when needed in conjunction with an application to
27 enter the United States or any foreign nation.

28 (9) Any public utility, as defined in Section 216 of the Public
29 Utilities Code, when access is needed to assist in employing
30 persons who will be seeking entrance to private residences in the
31 course of their employment. The information provided shall be
32 limited to the record of convictions and any arrest for which the
33 person is released on bail or on his or her own recognizance
34 pending trial.

35 If the local agency supplies the information pursuant to this
36 paragraph, it shall furnish a copy of the information to the person
37 to whom the information relates.

38 Any information obtained from the local summary criminal
39 history is confidential and the receiving public utility shall not
40 disclose its contents, other than for the purpose for which it was

1 acquired. The local summary criminal history information in the
2 possession of the public utility and all copies made from it shall
3 be destroyed 30 days after employment is denied or granted,
4 including any appeal periods, except for those cases where an
5 employee or applicant is out on bail or on his or her own
6 recognizance pending trial, in which case the state summary
7 criminal history information and all copies shall be destroyed 30
8 days after the case is resolved, including any appeal periods.

9 A violation of any of the provisions of this paragraph is a
10 misdemeanor, and shall give the employee or applicant who is
11 injured by the violation a cause of action against the public utility
12 to recover damages proximately caused by the violation.

13 Nothing in this section shall be construed as imposing any duty
14 upon public utilities to request local summary criminal history
15 information on any current or prospective employee.

16 Seeking entrance to private residences in the course of
17 employment shall be deemed a “compelling need” as required to
18 be shown in this subdivision.

19 (10) Any city, county, city and county, or district, or any
20 officer or official thereof, if a written request is made to a local
21 law enforcement agency and the information is needed to assist
22 in the screening of a prospective concessionaire, and any affiliate
23 or associate thereof, as these terms are defined in subdivision (k)
24 of Section 432.7 of the Labor Code, for the purposes of
25 consenting to, or approving of, the prospective concessionaire’s
26 application for, or acquisition of, any beneficial interest in a
27 concession, lease, or other property interest.

28 Any local government’s request for local summary criminal
29 history information for purposes of screening a prospective
30 concessionaire and their affiliates or associates before approving
31 or denying an application for, or acquisition of, any beneficial
32 interest in a concession, lease, or other property interest is
33 deemed a “compelling need” as required by this subdivision.
34 However, only local summary criminal history information
35 pertaining to criminal convictions may be obtained pursuant to
36 this paragraph.

37 Any information obtained from the local summary criminal
38 history is confidential and the receiving local government shall
39 not disclose its contents, other than for the purpose for which it
40 was acquired. The local summary criminal history information in

1 the possession of the local government and all copies made from
2 it shall be destroyed not more than 30 days after the local
3 government's final decision to grant or deny consent to, or
4 approval of, the prospective concessionaire's application for, or
5 acquisition of, a beneficial interest in a concession, lease, or other
6 property interest. Nothing in this section shall be construed as
7 imposing any duty upon a local government, or any officer or
8 official thereof, to request local summary criminal history
9 information on any current or prospective concessionaire or their
10 affiliates or associates.

11 (d) Whenever an authorized request for local summary
12 criminal history information pertains to a person whose
13 fingerprints are on file with the local agency and the local agency
14 has no criminal history of that person, and the information is to
15 be used for employment, licensing, or certification purposes, the
16 fingerprint card accompanying the request for information, if
17 any, may be stamped "no criminal record" and returned to the
18 person or entity making the request.

19 (e) A local agency taking fingerprints of a person who is an
20 applicant for licensing, employment, or certification may charge
21 a fee not to exceed ten dollars (\$10) to cover the cost of taking
22 the fingerprints and processing the required documents.

23 (f) Whenever local summary criminal history information
24 furnished pursuant to this section is to be used for employment,
25 licensing, or certification purposes, the local agency shall charge
26 the person or entity making the request a fee which it determines
27 to be sufficient to reimburse the local agency for the cost of
28 furnishing the information, ~~provided that~~ *however* no fee shall be
29 charged to any public law enforcement agency for local summary
30 criminal history information furnished to assist it in employing,
31 licensing, or certifying a person who is applying for employment
32 with the agency as a peace officer or criminal investigator. Any
33 state agency required to pay a fee to the local agency for
34 information received under this section may charge the applicant
35 a fee sufficient to reimburse the agency for the expense.

36 (g) Whenever there is a conflict, the processing of criminal
37 fingerprints shall take priority over the processing of applicant
38 fingerprints.

1 (h) It is not a violation of this article to disseminate statistical
2 or research information obtained from a record, provided that the
3 identity of the subject of the record is not disclosed.

4 (i) It is not a violation of this article to include information
5 obtained from a record in ~~(1)~~ *either* a transcript or record of a
6 judicial or administrative proceeding, or ~~(2)~~ any other public
7 record, when the inclusion of the information in the public record
8 is authorized by a court, statute, or decisional law.

9 (j) Notwithstanding any other law, the Department of Justice
10 or any state or local law enforcement agency may require the
11 submission of fingerprints for the purpose of conducting
12 summary criminal history information record checks ~~which~~ *that*
13 are authorized by law.

14 (k) Any local criminal justice agency may release, within five
15 years of the arrest, information concerning an arrest or detention
16 of a peace officer or applicant for a position as a peace officer, as
17 defined in Section 830, which did not result in conviction, and
18 for which the person did not complete a postarrest diversion
19 program or a deferred entry of judgment program, to a
20 government agency employer of that peace officer or applicant.

21 (l) Any local criminal justice agency may release information
22 concerning an arrest of a peace officer or applicant for a position
23 as a peace officer, as defined in Section 830, which did not result
24 in conviction but for which the person completed a postarrest
25 diversion program or a deferred entry of judgment program, or
26 information concerning a referral to and participation in any
27 postarrest diversion program or a deferred entry of judgment
28 program to a government agency employer of that peace officer
29 or applicant.

30 (m) Notwithstanding subdivision (k) or (l), a local criminal
31 justice agency shall not release information under the following
32 circumstances:

33 (1) Information concerning an arrest for which diversion or a
34 deferred entry of judgment program has been ordered without
35 attempting to determine whether diversion or a deferred entry of
36 judgment program has been successfully completed.

37 (2) Information concerning an arrest or detention followed by
38 a dismissal or release without attempting to determine whether
39 the individual was exonerated.

- 1 (3) Information concerning an arrest without a disposition
- 2 without attempting to determine whether diversion has been
- 3 successfully completed or the individual was exonerated.

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